

**EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION**

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CIVIL ACTION NO. 4:17-CV-878-ALM-KPJ

**MEMORANDUM ADOPTING REPORT AND  
RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE**

Came on for consideration the report of the United States Magistrate Judge in this action, this matter having been heretofore referred to the Magistrate Judge pursuant to 28 U.S.C. § 636. On March 21, 2019, the report of the Magistrate Judge (Dkt. #121) was entered containing proposed findings of fact and recommendations that the following motions be granted and all claims and counterclaims with respect to these parties be dismissed with prejudice:

- 1) Plaintiff Dynamic Applet Technologies, LLC (“Plaintiff”) and Defendant PetSmart, Inc.’s (“PetSmart”) Joint Motion to Dismiss (the “PetSmart Motion to Dismiss”) (Dkt. 105);
- 2) Plaintiff and Defendants Mattress Firm, Inc. and Sleepy’s, LLC’s (collectively, “Mattress Firm”) Joint Motion to Dismiss (the “Mattress Firm Motion to Dismiss”) (Dkt. 115); and
- 3) Plaintiff and Defendant Hollister Co.’s (“Hollister”) Joint Motion to Dismiss (the “Hollister Motion to Dismiss”) (Dkt. 114).

Having received the report of the United States Magistrate Judge, and no objections thereto having been timely filed, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and adopts the Magistrate Judge’s report as the findings and conclusions of the Court.

Accordingly, it is hereby **ORDERED, ADJUDGED, AND DECREED** that the PetSmart Motion to Dismiss (Dkt. 105), the Hollister Motion to Dismiss (Dkt. 114), and the Mattress Firm Motion to Dismiss (Dkt. 115) are **GRANTED**, and all claims with respect to these parties are **DISMISSED WITH PREJUDICE**, with each party to bear its own costs. Plaintiff’s claims against Defendant Urban Outfitters, Inc., the only remaining defendant, remain pending at this time.

**IT IS SO ORDERED.**

**SIGNED this 10th day of April, 2019.**

  
AMOS L. MAZZANT  
UNITED STATES DISTRICT JUDGE